



Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

VS

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,365	01/14/2004	Philip Gray	830 010	3315
25191	7590	01/30/2008	EXAMINER NEWAY, SAMUEL G	
Burr & Brown PO BOX 7068 SYRACUSE, NY 13261-7068			ART UNIT	PAPER NUMBER 2626
			MAIL DATE 01/30/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/757,365	GRAY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Samuel G. Neway	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 November 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 and 9-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-3,7,11-13 and 15-17 is/are allowed.
- 6) Claim(s) 4-6, 9-10, and 14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. This is responsive to the Amendment filed on 19 November 2007.
2. Claims 1 – 7 and 9 – 17 are still pending; claims 8 and 18 – 20 have been cancelled.

### ***Response to Amendment***

3. The 35 USC § 101 Rejections of claims 8 and 18 – 20 are withdrawn in view of Applicant's amendments.

### ***Response to Arguments***

4. Applicant's arguments regarding claims 4 – 6, 9 – 10, and 14 have been fully considered but they are not persuasive. Applicant argues that Ghitza and Bayya fail to disclose or suggest a distortion specific assessment handler as claimed. However, Ghitza's objective distortion measurement reads on Applicant's handler (see rejections below). Applicant is reminded that claims are given their broadest reasonable interpretation and although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 – 6, 9 – 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghitza et al (USPN 6,609,092) in view of Bayya et al (USPN 6,446,038).

Claim 4:

Ghitza discloses a method of assessing speech quality comprising the steps of determining a dominant distortion type for a sample (FIG. 1, item 114 and related text); using a distortion specific assessment handler to combine a plurality of parameters specific to said dominant distortion type to provide a distortion specific quality measure for each sample (FIG. 1, item 116 and related text); and generating a quality measure in dependence upon the distortion specific quality measure (FIG. 1, item 118 and related text).

Ghitza does not explicitly disclose the samples representing speech transmitted over a telecommunications network.

Bayya disclose a similar speech evaluating system in a communication system (Abstract).

It would have been obvious to one with ordinary skill in the art at the time of the invention to measure the quality of speech transmitted in a telecommunication system in Ghitza's method because Ghitza discloses that its "disclosed techniques are suitable for use with ... numerous alternative applications" (Ghitza, col. 2, lines 43-49).

Claim 5:

Ghitza and Bayya disclose a method according to claim 4, Ghitza further discloses the generating step comprising the sub step of combining a non-distortion specific plurality of parameters with said distortion specific quality measure to provide said quality measure ("the speech portion and the non-speech portions", col. 6, lines 28-36. Note that a non-distortion parameter is inherent in separating the speech into its speech and non-speech components).

Claims 6 and 14:

Ghitza and Bayya disclose a method according to claim 4, Ghitza further discloses the quality measure is representative of the quality of the speech perceived by an average user (Abstract)

Claims 9 – 10:

Claims 9 – 10 are similar in scope and content to claims 4 – 5 and are rejected with the same rationale.

#### ***Allowable Subject Matter***

7. Claims 1 – 3, 7, 11 – 13, and 15 – 17 are allowed.
8. The following is an examiner's statement of reasons for allowance: the prior art of record, individually or in combination, does not disclose dividing a database into a plurality of distortion sets of samples according to a dominant distortion present in each sample as claimed in the allowed claims .

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Neway whose telephone number is 571-270-1058. The examiner can normally be reached on Monday - Friday 8:30AM - 5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SN

*SN*

*W*  
DAVID HUDSPETH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600